

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PHILLIP B. HAUSKEN,

Plaintiff,

v.

LYNN BELANGER and SGT.
DUNLEVY,

Defendants.

NO: 2:15-cv-00025-SAB

ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER DENIAL
OF *IN FORMA PAUPERIS* AND
DISMISSING ACTION

By Order filed March 25, 2015, the Court instructed Plaintiff to show cause why he should not be precluded from proceeding *in forma pauperis* in this action pursuant to 28 U.S.C. § 1915(g). ECF No. 3. Plaintiff did not respond to the Order, and on May 12, 2015, this Court issued an Order Denying Leave to Proceed *In Forma Pauperis* and Dismissing Action. ECF No. 4. On June 15, 2015, the Court received a letter from Plaintiff purporting to explain how he met the standard set out in 28 U.S.C. § 1915(g). ECF No. 6. The Court construes this letter as a motion to reconsider its previous order at ECF No. 4.

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER DENIAL OF
IN FORMA PAUPERIS AND DISMISSING ACTION -- 1

1 Plaintiff's letter describes intervening in an altercation "a few months
2 ago" between an inmate known as "Pitbull" and inmate David Newton. Plaintiff
3 alleges that Pitbull was sent to the segregation unit. According to Plaintiff,
4 when Pitbull returned from segregation, he assaulted another inmate and was
5 sent back to segregation. Plaintiff believes he is in imminent danger because
6 Pitbull has threatened him in the past and could be released from segregation at
7 any time.

8 Despite Plaintiff's allegations, his motion to reconsider must be denied
9 for several separate and individually sufficient reasons. First, it is untimely.
10 Plaintiff had ample opportunity to present these allegations when the Court
11 issued its Order to Show Cause. Plaintiff failed to do so and Judgment was
12 entered against him. ECF No. 5. Second, Plaintiff's letter does not demonstrate
13 that he was in "imminent danger" at the time he filed the complaint in January
14 2015. See ECF No.1. The letter only states the altercation was "a few months
15 ago" and does not show any threat was present at the time he filed the
16 complaint. Third, it is far from clear that the altercation between Pitbull and the
17 other inmate coupled with a threat toward Plaintiff, rises to the level of
18 "imminent danger" under 28 U.S.C. § 1915(g). The Court notes this without
19 deciding the issue, as it is unnecessary to dispose of this motion. Finally,
20 Plaintiff's allegations of danger appear wholly unrelated to his complaint.

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER DENIAL OF
IN FORMA PAUPERIS AND DISMISSING ACTION -- 2

1 Although not every claim need be related to the source of danger, at least one
2 must be. *See Andrews v. Cervantes*, 493 F.3d 1047, 1054 (9th Cir. 2007)
3 (explaining that if one claim contained in a complaint satisfies the “imminent
4 danger” threshold the whole complaint is subject to *in forma pauperis* status).

5 Accordingly, **IT IS HEREBY ORDERED:**

6 1. Plaintiff’s letter, construed as a motion to reconsider, ECF No. 6, must be
7 **DENIED.**

8 **IT IS SO ORDERED.** The District Court Executive is directed to enter
9 this Order and forward a copy to Plaintiff at his last known address. The Court
10 certifies any appeal of this dismissal would not be taken in good faith.

11 **DATED** this 17th day of July 2015.



14 Stanley A. Bastian

15 Stanley A. Bastian
16 United States District Judge